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MAY 24 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,873,766
Issue Date: February 23, 1999
Application No. 08/657,725
Filed: May 3, 1996
Title of Invention: Toy Clapper

This is a decision on the petition filed March 23, 2011, under 37 CFR 1.377, to accept and record payment of a maintenance fee filed prior to expiration of patent.

The petition under 37 CFR 1.377 is **GRANTED**.

The patent issued February 23, 1999. Accordingly, the third maintenance fee due could have been paid during the period from February 23, 2010 through August 23, 2010 or with a surcharge during the period from August 24, 2010 through February 23, 2011. This patent expired however on February 23, 2011 for failure to timely pay the maintenance fees due.

Petitioner argues that the third maintenance fee was timely submitted on February 23, 2011 authorizing a charge to petitioner's credit card for the payment, however, a Notification of Non Acceptance of Patent Maintenance Fee was received noting that the payment was not accepted because the credit card company declined charges on the credit card provided.

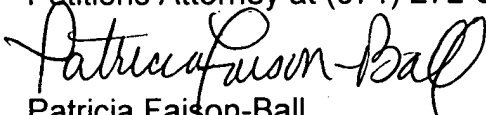
The record (a letter refusing payment by the Office and stating receipt "02/23/2011") evidences that payment was timely tendered by Petitioner and received by the Office. Nonetheless, it appears that the Office failed to accept and credit the fee to the instant patent because the credit card was declined.

Petitioner has adequately demonstrated, with proof from the issuing bank that the credit card balance was sufficient for the charge on both the date the credit card authorization was received through the date the Notice was mailed. No other verifiable reason has been given for why the funds were not applied as authorized.

Accordingly, the maintenance fees in this case are hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Funds in the amount of \$2055 for the third maintenance fee and \$65 for the surcharge have been applied.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.


Patricia Faison-Ball
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